

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795 <div style="text-align: center; font-size: 24pt; font-weight: bold;">STAFF REPORT</div>	Hearing Date/Agenda Number P.C. 2/27/02 Item No.
	File Number CP 01-11-099
	Application Type Conditional Use Permit
	Council District 6
	Planning Area Central
	Assessor's Parcel Number(s) 261-35-002

PROJECT DESCRIPTION	Completed by: Britta Buys
Location: South side of West San Fernando Street approximately 270 feet west of South Montgomery Street	
Gross Acreage: 1.74	Net Acreage: 1.74 Net Density: n/a
Existing Zoning: LI Light Industrial	Existing Use: Pacific Gas & Electric Substation
Proposed Zoning: No Change	Proposed Use: Wireless Communication antennas to be installed on existing utility tower

GENERAL PLAN	Completed by: BB
Land Use/Transportation Diagram Designation Midtown Specific Plan, Cahill East Subarea, Public / Quasi-Public	Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING	Completed by: BB
North: Public / Quasi-Public & Light Industrial	LI Light Industrial
East: Public / Quasi-Public & Light Industrial	LI Light Industrial
South: Public / Quasi-Public & Light Industrial	LI Light Industrial
West: Public / Quasi-Public & Cahill Station	LI Light Industrial

ENVIRONMENTAL STATUS	Completed by: BB
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on	<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete

FILE HISTORY	Completed by: BB
Annexation Title: Gardiner	Date: March 16, 1911

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision	Date: _____	Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation

OWNER	APPLICANT / DEVELOPER
Pacific Gas & Electric Company Attn: Robert E. Schlegel 77 Beale Street San Francisco, CA 94105	Nextel Communications Attn: Chad Abbott 1255 Treat Blvd. Walnut Creek, CA 94596

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: BB

Department of Public Works

No comments.

Other Departments and Agencies

See Memorandum from the Fire Department.

GENERAL CORRESPONDENCE

See attached letter from Pacific Gas & Electric Company received February 7, 2002.

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The applicant, Nextel Communications, is requesting a Conditional Use Permit to allow installation of wireless communication antennas on an existing utility tower, to increase the height of the tower from 50 to 60 feet, and to construct an associated ancillary equipment shelter in the LI Light Industrial Zoning District. A Conditional Use Permit is required for wireless communication antennas when the existing utility structure they are to be mounted to is increased in height.

The project site is flat and developed with a PG&E substation and surface parking. Surrounding uses include a Pacific Bell facility to the south, warehouses and other industrial uses to the north and east, and the Cahill Station to the west.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The proposed project consists of a 10-foot height increase for an existing 50-foot utility tower, installation of three 8-foot tall antennas painted to match the tower, and the construction of a 230 square-foot ancillary equipment shelter. The 10-foot high shelter will be located approximately 19 feet north of the tower and will be partially surround by the existing PG&E containment wall and fence. The applicant proposes to install four pittosporum shrubs (evergreen) to screen the shelter from the northerly and southerly areas of the adjacent parking lot. An existing mature tree is located approximately 16 feet to the west of the proposed shelter, providing further screening of the proposed facility. The east side of the shelter is within 3 feet of the existing fence and containment wall, which separates the substation from the adjacent Pacific Bell site and warehouses. This project will not displace any existing parking.

PUBLIC OUTREACH

A notice of the Planning Commission public hearing was mailed to all owners and tenants of property within a 500-foot radius of the project site. Staff has been available to discuss the project with members of the public.

ENVIRONMENTAL REVIEW

Under Section 15303(c) of the California Environmental Quality Act, the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure are exempt from environmental review. The Director of Planning has found this project to be exempt from environmental review.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the General Plan land use designation of Midtown Specific Plan, Cahill East Subarea designation of Public/Quasi-Public. Wireless communication antennas are allowed on parcels designated Public/Quasi-Public.

ANALYSIS

The primary issue analyzed for this proposal is consistency with Council Policy 6-20, *Land Use Policy for Wireless Communication Facilities* (see attached) and conformance with the LI Light Industrial Zoning District.

Land Use Policy for Wireless Communication Facilities (Council Policy 6-20)

Council Policy 6-20 specifies that structure-mounted antennas should be located to minimize visual impacts and should be architecturally integrated into the structure. Further, the antennas must be located a minimum of 50 feet horizontally from any property with a residential use or General Plan designation, all ancillary equipment should be adequately screened, and the facility must not replace required parking.

The proposed project will locate three panel antennas on an existing PG&E utility tower at a large substation facility. While the project proposes an increase in the tower height to 60 feet to meet PG&E safety standards for separation of the antennas from the existing insulators (see attached letter), the antennas will be flat mounted and painted to match the existing tower, and will not significantly add to the visual impacts created by the existing tower and overhead service lines on the site. The equipment shelter will be partially screened by an existing wall, fence and tree, and the applicant proposes to further screen the structure by planting evergreen shrubs. The subject site is located between the Cahill Station and its associated rail right-of-way to the west and additional public utility facilities and warehouses to the east. There are no residential uses or residentially designated parcels in the immediate vicinity of the project site. The proposed project will not replace parking.

Conformance with the Zoning District

Section 20.80.1900(B) of the Zoning Code allows building mounted wireless communication antennas to exceed the maximum height of the zoning district in which it is located, provided that:

- The overall height of the building or structure, including the antennas, does not exceed (60) feet, or the increase in height does not exceed 35% of the existing building or structure, whichever is less; and
- The antenna are architecturally integrated into the building and all ancillary equipment is adequately screened; or
- The antenna does not add to the visual clutter of the building or structure.

As discussed above, the project proposes to increase the height of the existing utility tower from 50 to 60 feet in order to co-locate three antennas. The antennas will be painted to match the existing tower. The associated equipment shelter will be adequately screened. The proposed project will not significantly add to the visual clutter of the tower and its associated substation.

Conclusion

Based on the above analysis, staff concludes that the proposed project is consistent with Council Policy 6-20 and the Zoning Code, and will be compatible with the surrounding uses.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a General Plan land use designation of Public/Quasi-Public within the Midtown Specific Plan, Cahill East Subarea.
2. The project site is located in the LI Light Industrial Zoning District.
3. This project was found to be exempt from environmental review.
4. The proposed project complies with all applicable provisions of the Zoning Ordinance.
5. This Conditional Use Permit would allow the installation of wireless communication antennas on an existing utility tower, the increase of the tower height from 50 to 60 feet, and the construction of an associated ancillary equipment shelter.
6. A Conditional Use Permit is required for wireless communication facilities mounted on an existing utility structure where an increase in the height of the structure is necessary.

7. The 230 square-foot ancillary equipment shelter will be located approximately 19 feet north of the tower, and will be partially surround by the existing PG&E containment wall, fence and existing tree. The applicant proposes to install four pittosporum shrubs (evergreen) to screen the shelter from the northerly and southerly areas of the adjacent parking lot.
8. The antennas will be painted to match the existing tower and will be flat-mounted to minimize visibility.
9. This project will not reduce any on-site parking.
10. There are no residential uses or residentially designated parcels in the immediate vicinity of the project site.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: *Land Use Policy for Wireless Communication Facilities*, in that:
 - The overall height of the structure, including the antennas, does not exceed (60) feet, or the increase in height does not exceed 35% of the existing structure; and
 - The antennas are architecturally integrated into the structure and all ancillary equipment is adequately screened; and
 - The antennas do not add to the visual clutter of the structure.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Nextel Communications, San Jose Station, CA-2462-B" dated November 7, 2001 and last revised on February 5, 2002 on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Lighting.** No on-site lighting is approved with this permit.
4. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.

5. **Colors and Materials.** All wireless communications antennas colors and materials are to be those specified on the approved plan set.
6. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
7. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 01-11-099, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
9. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
10. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
11. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
12. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
13. **Hazardous Materials.** The applicant shall submit names and amount of any hazardous materials to be used or stored within the project site to the Hazardous Materials Division (277-4659). Use or storage of hazardous materials, liquids, gases and/or chemicals are subject to the requirements of the Hazardous Materials Storage Ordinance, the Toxic Gas Ordinance, the applicable sections of the San Jose Fire Code, and the National Fire Code.
14. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, wall and fence surfaces within 48 hours of defacement.

15. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days. Any changes to the antennas shall require additional permitting as determined necessary by the Director of Planning.
16. **Co-location.** The applicant and wireless communication facility operator shall facilitate the future collocation of wireless communication antennas on the utility tower. The applicant and wireless communication facility operator shall notify the Director of Planning of any proposals by other wireless communication providers to collocate antennas at this location. The notification shall occur within 30 days of receipt of the proposal, and shall include the file number of this Permit. Future collocation that does not increase the height of the utility structure by more than seven feet may be permitted through a permit adjustment at the discretion of the Planning Director.
17. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.
18. **Time Limit.** This permit shall expire five years after the date of approval. Renewal of the use through a subsequent Conditional Use Permit shall include a compliance review and an evaluation of the operation approved under the present permit.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

c: Building Division (2)
Engineering Services

Nextel Communications, Attn: Chad Abbott, 1255 Treat Boulevard, Walnut Creek, CA 94596